

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

POWERHOUSE BEVERAGE COMPANY
LLC, et al.,

Plaintiffs,

-against-

FRANK NAHOUM, et al.,

Defendants.

22-cv-5559 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

As discussed at the August 31, 2023, conference, the parties are ORDERED as follows:

1. By **September 7, 2023, at 5PM**: Plaintiffs must file on ECF 28 U.S.C. § 1746 declarations, under penalty of perjury, from the owners of (a) Live Life Smart, Inc., and (b) Sparkling Your World, Inc. In each case, the declarant should state that they are the owner of the company, they are aware of and authorized the filing of this Action, and they consent to its continued litigation. Plaintiffs should note that in Dkt. 89, Plaintiffs contended that Liz Kellogg and Jean de Lyra own Live Life Smart.
2. By **September 15, 2023, at 5PM**: Both sides must email their purported versions of January 28, 2014, Powerhouse Operating Agreement to SubramanianNYSDCambers@nysd.uscourts.gov. Each side should copy counsel for the other side on the email. The email's subject line should read "Powerhouse Operating Agreement ([Plaintiffs/Defendants])." The body of the email should be empty; the email should only contain the attachment. The emails shall not contain any argument.
3. By the same date, **September 15, 2023, at 5PM**, Lead Trial Counsel (Mr. Raymond Ragues, Mr. Thomas Stanziale, and Mr. Dennis Beline) must each file on ECF signed letters certifying "that to the best of my knowledge, information, and belief, formed after an


inquiry reasonable under the circumstances,” the version of the agreement they are submitting to the Court is the true and correct version of the Powerhouse Operating Agreement, and that version does not contain any forgery or unauthorized modification of any kind. Fed. R. Civ. P. 11(b).

4. By **September 21, 2023, at 5PM**: Counsel for Plaintiffs should file on ECF a letter indicating whether any claims in the Complaint can be withdrawn from this litigation and identifying those claims. By **September 28, 2023, at 5PM**, counsel for Defendants should file on ECF a letter indicating whether any counterclaims can be withdrawn from this litigation and identifying those counterclaims. No reason needs to be given for the withdrawal of any claim or counterclaim, and the Court will assume any withdrawal is based on a desire to streamline this litigation for trial.
5. As reflected by the record of the August 31, 2023 conference, both sides have waived their right to a jury trial on the limited issue of which version of the January 28, 2014, Powerhouse Operating Agreement is the true and correct version. The Court will hold a bench trial on that issue on **October 30, 2023, beginning at 9AM**. If there are disputes in advance of the trial, the parties must bring those issues to the Court’s attention promptly pursuant to this Court’s Individual Practices.

The Court will take appropriate corrective action if any party fails to adhere to these orders.

SO ORDERED.

Dated: September 1, 2023
New York, New York



ARUN SUBRAMANIAN
United States District Judge